

REMARKS

The Amendments

Claims 1 and 7 are amended to replace the chemical alphanumeric identifier with the full chemical name or common name. The amendment is supported by the common knowledge of these synonymous names in the art. Support therefore is found in the previously provided literature references. This same amendment was presented After Final rejection, was initially denied entry and then was indicated to be entered for purposes of appeal only. The amendment should now be entered. With entry of the amendment, the previous rejection under 35 U.S.C. §112, second paragraph, made in the Final Rejection is believed to be overcome; as was indicated in Box 5 of the Advisory Action mailed May 4, 2007. The amendments do not narrow the broadest scope of the claims.

Applicants reserve the right to file one or more continuing and/or divisional applications directed to any subject matter disclosed in the application which may have been inadvertently canceled by any of the above amendments.

The Rejection under 35 U.S.C. §103

The rejection of claims 1, 2, 4, 5, 7-11, 13, 19-38, 43 and 44, under 35 U.S.C. §103, as allegedly being obvious over Knowles (WO 03/011274) in view of Meissner (U.S. Patent No. 6,706,726) further in view of Hill (U.S. Patent No. 6,060,069), is respectfully traversed.

Applicants note that the Board affirmed this rejection in their Decision on appeal. However, applicants urge withdrawal of the rejection based on a new issue not raised on appeal. The Knowles reference – which is the primary basis for the rejection – is not available as prior art against the instant claims. Knowles was published on February 13, 2003, and thus has this as its 35 U.S.C. §102(a) date. The International filing date of

Knowles in the PCT is July 25, 2002, it designated the United States and was published in English. Thus, its 35 U.S.C. §102(e) effective date is July 25, 2002. No other applications indicated by INPADOC as corresponding to the Knowles application were published before July 25, 2002, thus, this is its earliest effective prior art date. The instant application was filed on July 7, 2003, but claims priority under 35 U.S.C. §119 to Germany (DE) Application No. 10230769.5 filed July 9, 2002. Applicants have previously submitted a certified copy of the German priority document (as noted in the Office action mailed July 25, 2006, and in subsequent actions). Applicants file herewith a verified translation of the priority document for the purpose of the PTO confirming support in the priority document for the instant claims. Upon confirming such support, applicant's claim to priority should be perfected and an effective filing date of July 9, 2002, established. This pre-dates the July 25, 2002, prior art date of Knowles. Thus, Knowles would be removed from the prior art and cannot support the rejection under 35 U.S.C. §103.

In the absence of reliance on Knowles, the 35 U.S.C. §103 rejection cannot be maintained. None of the other cited references provide any suggestion of a composition containing a PDE 4 inhibitor as recited in the instant claims.

For the above reasons, the rejection under 35 U.S.C. §103 should be withdrawn.

It is submitted that the claims are in condition for allowance. However, the Examiner is kindly invited to contact the undersigned to discuss any unresolved matters.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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